THE HON'BLE SRI JUSTICE GHULAM MOHAMMED

W.P.No.8504 of 1996

Dated : 23-2-2006

Between

Riazuddin Ahmed S/o. Alimuddin,

Aged, 39 years, Working as Charge Head

OCP-II, M/s. Singareni Collieries Co. Ltd.,

Godavarikhani …….. petitioner

And

Government of India, rep. by its

Secretary, Ministry of Labour, New Delhi and another

…….. respondent

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Oral Order :

This writ petition has been filed challenging the impugned order No.L-22012/76/95-IR (C-II) dated 19.9.1995 of the 1st respondent and consequently seeks a direction to the first respondent to refer the dispute contained in failure report send by the Assistant Labour Commissioner, Mancherial in proceeding NO.1/61/94-ALC-Mcl. dated 31-8-1994 to the Industrial Tribunal for adjudication.

The petitioner was appointed in the second respondent company in the year 1980 and it is his contention that he is entitled for Grade "A" promotion, the same was not extended to him. As his representations did not yield any fruitful result, at his instance the Union has taken up the issue with the second respondent but nothing resulted positively, compelling to approach the Assistant Labour Commissioner, Manchiryal for his intervention, where settlement could not be arrived at and the conciliation proceedings were ended in failure vide proceedings dated 31-8-1994. Thereafter, the 1st respondent issued the impugned proceedings dated 19-9-1995 refusing to refer the

dispute to the Industrial Tribunal.

Learned counsel for the petitioner submitted that the 1st respondent ought not to have delve into merits of the dispute, instead of referring the dispute to the Industrial Tribunal, despite the failure report sent by the Assistant Labour Commissioner, Mancherial. He further submitted that the issue involved in this writ petition is squarely covered by the judgments reported in RAM AVATAR SHARMA v. STATE OF HARYANA ((1) AIR 1985 SC 915), TELCO CONVEY DRIVERS MAZDOOR SANGH v. STATE OF BIHAR ((2) (1989) 3 Supreme Court Cases 271) and also judgment of the Division Bench of this Court in Writ Appeal No.726 of 1995 dated 26-7-1995, wherein the order passed by the learned single Judge of this court directing the 1st respondent-Government to refer the dispute to the Industrial Tribunal was confirmed.

Considering the circumstances of the case and the fact that the Assistant Labour Commissioner, Manchiryal, concluded the conciliation proceedings as failure vide proceedings dated 31-8-1994, the 1st respondent ought to have refer the dispute to the Industrial Tribunal. In the circumstances, following the judgments referred supra, the impugned order is set aside and the writ petition is allowed directing the 1st respondent to make reference under section 10(1) of the Industrial Disputes Act of the disputes raised by the petitioner to the appropriate Industrial Tribunal within a period of three months from the date of receipt of a copy of this order, according to law. No costs.

Kk/nrg 23-2-2006